

APPEAL NO. 040437
FILED APRIL 8, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on February 2, 2004. The hearing officer determined that the respondent (claimant) sustained a compensable (left ankle) injury on _____, and that the claimant had disability from June 20, 2003, to the date of the CCH.

The appellant (carrier) appeals, citing various case law and Appeals Panel decisions for the proposition that pain "simply walking" does not constitute a compensable injury and that the claimant "suffered a coincidental or idiopathic eruption at work" of an underlying condition. The carrier also appeals the disability determination on the basis that the claimant did not sustain a compensable injury. The claimant responds, urging affirmance.

DECISION

Affirmed.

The claimant was employed as a "lease out" (operating a series of machines which make denim). We note that this case, more than usual, involves terminology unique to his manufacturing process. The claimant alleges that he sustained a left ankle injury on _____, which manifested itself as a "burning sensation" in his left ankle. Exactly what the claimant was doing at the time he experienced the burning sensation is disputed. The hearing officer recited the claimant's testimony as being that "he felt a burning sensation in his ankle when he put tension on the beam by pressing on the side of the beam with his left foot." That summary is supported by testimony in the record. (See transcript page 25, lines 12 and 13, and page 35, lines 5 and 6.) The hearing officer, in her discussion, comments on the claimant's various activities and states all the activities "require that he be standing and/or walking" and concluded that the claimant's statements "that he felt the burning sensation in his ankle while walking, was actually his way of explaining that he was injured during the course and scope of employment." The carrier cites case law and Appeals Panel decisions for the proposition that "simply walking" does not result in a compensable injury. We would agree with the carrier on the "simply walking" proposition, however, this case involves more than simply walking and is replete with testimony, including that from the employer's shift manager, that the claimant's job required stepping on a step "to put tension on the machine." The hearing officer found that the claimant was injured during the course and scope of employment "when he felt a burning sensation in his left ankle." We will uphold the hearing officer's judgment if it can be sustained on any reasonable basis supported by the evidence. Daylin, Inc. v. Juarez, 766 S.W.2d 347 (Tex. App.-El Paso 1989, writ denied). In this case the hearing officer's decision that the claimant sustained a compensable injury on _____, is supported by the evidence that

the claimant felt the burning sensation when he stepped on or put tension on a beam by pressing the beam with his left foot.

In that the appeal of the disability determination hinges on a finding of no compensable injury, and having affirmed the hearing officer's determination of a compensable injury, we likewise affirm the disability determination.

For the reasons stated the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **THE TRAVELERS INDEMNITY COMPANY OF AMERICA** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Margaret L. Turner
Appeals Judge

Edward Vilano
Appeals Judge